

February 11, 2019

Jocelyn
VIA E-MAIL

Re: Restaurant Rewards Program

Dear Jocelyn:

ISSUE: This is in response to your e-mail dated December 13, 2018, wherein ask about the permissibility of a restaurant (“R”) licensee allowing patrons to accumulate “rewards points” to be used for the purchase of food and beverages. You ask if the points may be used like a gift certificate toward the purchase of alcoholic beverages or if they would be limited to use on food and non-alcoholic beverage purchases.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that MTOWN TAJ, LLC, t/a Heritage Restaurant & Musket Lounge holds Restaurant Liquor License No. R-19055 (LID 90139) for the premises at 6016 Morgantown Road, Route 10, P.O. Box 367, Morgantown, Pennsylvania.

OPINION: Please be advised that section 493(22) of the Liquor Code generally prohibits a licensee from offering, paying, making or allowing any allowance or rebate, refunds or concessions, whether in the form of money or otherwise, to induce the purchase of liquor or malt or brewed beverages. 47 P.S. § 4-493(22). Furthermore, section 493(24)(i) of the Liquor Code generally prohibits licensees, or their employees or agents, from offering or giving anything of value or soliciting or receiving anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverages. 47 P.S. § 4-493(24)(i).

The use of reward points to purchase alcohol on a licensed premises has been previously addressed by this office in Board Advisory Opinion No. 06-422. As stated in that opinion, a point system which establishes an alternate method for paying for alcohol distribution is permissible but must still be in conformity with the Board’s Regulations pertaining to discount pricing practices and free drinks. Additionally, these same points must be redeemable for non-alcoholic items as well. While you may establish a reward credit system under which the person purchasing the alcohol uses points rather than cash, it would be incumbent upon you to establish that the points used to acquire alcoholic beverages

would be equivalent to the cash price. Of course, the section 493(24) prohibition on the rewarding of points based upon the purchase of alcoholic beverages would still apply.

Please also be advised that retail licensees and breweries are permitted to offer a “mug club” to their patrons. Such an offer will not be construed as an unlawful inducement. 47 P.S. § 4-493(24)(iii). Also, mug club discounts are not counted against a licensee’s maximum number of hours during which it may offer happy hour pricing. 47 P.S. §§ 4-406(g), 4-442(g).

A “mug club” is defined as a group organized by a retail licensee or a brewery whose members are entitled to discounted malt or brewed beverages. Membership in the mug club shall be by written application and the licensee must maintain a written list of active members as part of its records. No discounted malt or brewed beverages may be provided between 12:00 a.m. and 7:00 a.m. 47 P.S. § 1-102.

Provided that the licensee’s mug club adheres to the above requirements, mug club members may receive discounts on malt or brewed beverages purchased for both on premises and off-premises consumption. However, be advised that retail licensees may not sell more than 192 ounces of malt or brewed beverages in a single sale to an individual for off-premises consumption. 47 P.S. § 4-407.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Tisha Albert, Director of Office of Regulatory Affairs
B. L. Peifer, Director, Bureau of Licensing